on May 6, 2003, and in accordance with the suggestions of the Examiner, Applicant has cancelled Claims 1-4, 10-12, 33-40, and 48. Applicant has added new Claims 49-64 with Claim 49 being independent. No new matter has been added by this amendment.

I. The § 112 Rejections

A. Rejection of Claims 1-4, 10-12, 33-40 and 48 under 35 U.S.C. § 112 ¶ 1.

The Examiner rejected Claims 1-4, 10-12, 33-40 and 48 under 35 U.S.C. § 112 ¶ 1 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Because Claims 1-4, 10-12, 33-40 and 48 have been cancelled and new Claims 49-64 do not contain the term "synergy," Applicant respectfully submits that this rejection is moot and requests reconsideration and withdrawal thereof.

B. Rejection of Claims 2, 3, 11, 35, 36, and 38 under 35 U.S.C. § 112 ¶ 2.

The Examiner has rejected Claims 2, 3, 11, 35, 36, and 38 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that "derivatives" is indefinite. Because Claims 2, 3, 11, 35, 36, and 38 have been cancelled and new Claims 49-64 do not contain the term "derivatives," Applicant respectfully submits that this rejection is moot and requests reconsideration and withdrawal thereof.

II. The 35 U.S.C. § 102 Rejections

A. Rejection of Claims 1, 3, 34, and 36 over Magruder et al.

The Examiner has rejected Claims 1, 3, 34, and 36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,731,001 to Magruder et al.. Magruder describes a fluid-imbibing delivery device or dispenser for storing and protecting a fluid-sensitive active agent and for dispensing the agent to a fluid environment of use over a prolonged period of time. One of

the preferred active agents disclosed is bovine somatotropin. The active agent formulation also can include a pharmaceutically acceptable carrier such as a buffer, viscosity modulating vehicle, surfactant, dyes and other additives known in the art.

Because Claims 1, 3, 34, and 35 have been cancelled, Applicant respectfully submits that this rejection is now moot. Nonetheless, Applicant submits that new independent claim 49 is not anticipated by the Magruder reference because Magruder fails to include every element and limitation of this claim. Specifically, Magruder does not disclose an implant for placement under the skin of an animal containing a growth promoting agent, namely, trenbolone acetate, estradiol, estradiol benzoate, or combinations thereof, in conjunction with a supplemental agent, namely, tylosin, tylosin tartrate, melengesterol acetate or combinations thereof, to promote growth in an animal. Rather, Magruder patent merely provides a single osmotic delivery device for fluid-sensitive active agents such as growth promotants. There is no reference anywhere in Magruder to the effective combination of more than one active agent. Thus, the '001 patent does not anticipate claim 49 and the Claims depending therefrom.

B. Rejection of Claims 1-4, 10-11, and 33-39 over Cardamone et al.

The Examiner also rejected Claims 1-4, 10-11, and 33-39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,980,508 to Cardamone et al. Because Claims 1-4, 10-11, and 33-39 have been cancelled, Applicant respectfully submits that this rejection is now moot. Nonetheless, Cardamone discloses a device for dispensing active agents wherein the active agent may be dispensed from the device as a solid, liquid or gas. The active agent may then be dispersed as a slurry, concentrated liquid or a tablet. Cardomone does not teach an implant for placement under the skin of an animal containing from about 5-400 mg of a growth promoting agent, namely, trenbolone acetate, estradiol, estradiol benzoate, or combinations thereof, in conjunction with 5-1500 mg of a supplemental agent, namely, tylosin, tylosin tartrate,

melengesterol acetate or combinations thereof, to promote growth in an animal. Further, the Examiner states that Fig. 9a shows multiple pellets in an implant. However, Figure 9a is not directed toward multiple pellets of an implant, but to the passive layers of the delivery device. Therefore, because Cardamone fails to teach each and every limitation of claim 49, Cardamone does not anticipate the present invention under § 102(e). Applicant respectfully requests reconsideration and withdrawal of this rejection.

C. Rejection of Claims 1-4, 33-36, and 38-39 over Runkel et al.

The Examiner has also rejected Claims 1-4, 33-36, and 38-39 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,035,891 to Runkel et al. Because Claims 1-4, 33-36, and 38-39 have been cancelled, Applicant respectfully submits that this rejection is now moot. Runkel describes a sustained release implant capable of releasing a therapeutic agent at a constant rate over a prolonged period of time wherein the implant swells through osmotic pressure after implantation to release the therapeutic agent. Runkel does not, however, teach the combination of a growth-promoting agent with a second, supplemental agent such as estrus-suppressing compositions or antibiotics as required by independent claim 49. The Examiner states that Runkel discloses trenbolone at 25 mg in combination with estrus suppressants at column 13. However, the only disclosure in column 13 is of the combination of trenbolone with other growth stimulating agents such as progesterone and estradiol benzoate. Neither in column 13 nor in the rest of the Runkel reference is there any disclosure whatsoever of a combination of a growth stimulating agent such as trenbolone, estradiol, or estradiol benzoate with a supplemental agent such as melengesterol acetate, tylosin, or tylosin tartrate, especially in the claimed amounts. Because Runkel fails to disclose every limitation of independent claim 49, it does not anticipate this claim and the Claims depending therefrom and cannot therefore cannot

be used to support a rejection under § 102(b). Applicant respectfully requests that this rejection be withdrawn.

III. Conclusion

Applicant respectfully requests withdrawal of the rejections and believes that new Claims 49-64 as presented are now in condition for allowance. However, if the Examiner desires, the applicant is ready for a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at 816-460-2516. The Examiner's attention is also drawn to the proper correspondence address shown below.

Respectfully submitted,
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